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5 UNITED STATES DISTRICT COURT  
6 EASTERN DISTRICT OF WASHINGTON  
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8 CHYANNE HURST and KEVIN HURST,

9 Plaintiffs,

10 v.

11 OHIO SECURITY INSURANCE CO.,

12 Defendant.  
13

NO. 1:16-cv-03222-SAB

**ORDER DENYING  
PLAINTIFF'S MOTION FOR  
REMAND**

14 Before the Court is Plaintiff's Motion to Remand, ECF No. 10. The motion  
15 was heard without oral argument. Plaintiffs Chyanne and Kevin Hurst are  
16 represented by Brian Anderson and Net Stratton. Defendant Ohio Security  
17 Insurance Co. is represented by John Silk and Sarah Eversole.

18 This case was originally filed in November, 2016 in Yakima County  
19 Superior Court. Plaintiffs owned a small restaurant located in Grandview,  
20 Washington. A fire burned down the restaurant in November, 2013. The  
21 Complaint alleges that Defendant, Plaintiffs' insurer, "did not pay out benefits due  
22 under the policy for Plaintiffs' damages; commenced an investigation and  
23 unreasonably prolonged its investigation, and has continued its investigation  
24 without accepting or denying coverage for Plaintiffs' claim." ECF No. 1, Ex. 2.  
25 Plaintiffs allege they suffered substantial damages in the structure fire, including  
26 loss of the building structure, loss of equipment, and loss of income.

27 In their Complaint Plaintiffs are bringing claims for: (1) breach of contract;  
28 (2) violation of Insurance Fair Conduct Act; and (3) violation of the Consumer

1 Protection Act and breach of duty. Plaintiffs are seeking actual damages, treble  
2 damages, general damages and reasonable attorneys' fees.

3 Defendant removed the case to the Eastern District of Washington in  
4 December, 2016. In its notice of removal, Defendant asserted that the parties were  
5 diverse, given that Plaintiffs were residents of Yakima, and Defendant was a  
6 foreign corporation. ECF No. 1. It also asserted the amount of controversy was in  
7 excess of \$75,000, exclusive of interest and costs. Defendant indicated the  
8 estimated cost of building repairs are in excess of the \$120,000 insurance policy  
9 for building coverage and also relied on the fact that Plaintiffs are seeking actual  
10 damages under the CPA, treble damages under the CPA and IFCA, and attorney  
11 fees.

### 12 **Motion Standard**

13 A defendant may remove an action that has been filed in state court to the  
14 district court, if the district court has original jurisdiction over the action.  
15 28 U.S.C. § 1441. District courts have original jurisdiction over civil actions  
16 where the matter in controversy (1) exceeds the sum or value of \$75,000,  
17 exclusive of interest and costs and (2) is between citizens of different States.  
18 28 U.S.C. § 1332. For purposes of §§ 1332 and 1441, a corporation is deemed to  
19 be a citizen of every State and foreign state by which it has been incorporated and  
20 of the State or foreign state where it has its principal place of business. §  
21 1332(c)(1).

22 The dispute between the parties is whether the matter in controversy  
23 exceeds the \$75,000 threshold amount.

### 24 **Amount in Controversy**

25 If the complaint does not specify a total amount in controversy, the  
26 removing defendant bears the burden of establishing, by a preponderance of the  
27 evidence, that the amount in controversy exceeds the jurisdictional amount.  
28 *Guglielmino v. McKee Foods Corp.*, 506 F.3d 696, 699 (9th Cir. 2007). Said



1 \$25,000 (CPA) + \$135,558 (IFCA) = \$205,744.

2 Although Plaintiffs argue that damages under the IFCA are speculative, for  
3 purposes of deciding Plaintiff's motion to remand, the Court accepts the  
4 allegations of the complaint as true. *Swipe & Bite, Inc. v. Chow*, 147 F.Supp.924,  
5 927 (N.D. Calif. 2015).

6 Accordingly, **IT IS ORDERED:**

7 1. Plaintiff's Motion to Remand, ECF No. 10, is **DENIED**.

8 **IT IS SO ORDERED.** The District Court Clerk is hereby directed to enter  
9 this Order and to provide copies to counsel.

10 **DATED** this 8th day of May 2017.



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A handwritten signature in blue ink that reads "Stanley A. Bastian". The signature is fluid and cursive, with a horizontal line underneath it.

16 Stanley A. Bastian  
17 United States District Judge  
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